

EXHIBIT A



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Lawyers Challenge Lewdness Arrests at Port Authority Bus Terminal



Cornell Holden, a 28-year-old baker who was arrested when leaving a Port Authority Bus Terminal bathroom in May, says he was wrongly charged.

BRYAN THOMAS FOR THE NEW YORK TIMES

By JOSEPH GOLDSTEIN

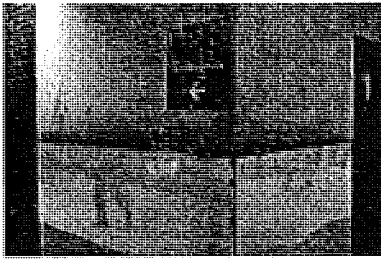
OCTOBER 7, 2014

For some of the more than 100,000 travelers who use the Port Authority Bus Terminal each day, a second-floor men's room is their first or last stop in New York City. The facilities are what you might expect: toilets, urinals, hand dryers.

But above the row of sinks, a posted sign offers an atypical note of caution: "Restrooms are patrolled by plain clothes officers."

It is not an idle warning.

Port Authority police officers have arrested more than 60 people this year in the bus terminal on public lewdness charges, a sevenfold increase over the same period last year. Most of those arrested were accused of masturbating in the second-floor bathroom. According to court records, they were observed by plainclothes officers, who were often standing next to them at an adjacent urinal.



A sign for the men's bathroom on the second floor of the bus terminal, where dozens of people have been arrested and charged with lewdness this year.
BRYAN THOMAS FOR THE NEW YORK TIMES

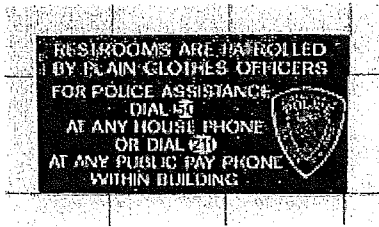
At least a dozen of those arrested are represented by the Legal Aid Society, whose lawyers say their clients — some of whom say they were merely urinating — were victims of aggressive and intrusive police tactics.



The effort by the Port Authority police is part of a crackdown on quality-of-life crimes at the bus terminal.

The bathroom is hardly a hotbed of sexual activity. Capt. John Fitzpatrick, the Port Authority police commander who oversees the bus terminal, acknowledged that complaints about sexual behavior in the men's room "are few and far between."

Nonetheless, an average of two arrests on lewdness or exposure charges are made each week, leading to the puzzling, recurring sight of men being handcuffed as they leave the bathroom.



A notice is posted inside the bathroom.
BRYAN THOMAS FOR THE NEW YORK TIMES

“Sometimes they are nicely dressed people,” said Dolma Tsering, 39, who sells hats and shawls from a kiosk near the men’s room. “I don’t know the reason.”

The Legal Aid Society argues that the police are overzealously enforcing laws against lewdness and exposure and, as a result, are arresting innocent men.

In a motion filed in August, a Legal Aid lawyer argued that the Port Authority’s interpretation of the law seemed to criminalize the use of public urinals.

“Surely, the use of a urinal in a public bathroom requires that man expose his unclothed penis,” wrote the lawyer, Caroline Glickler. The motion also noted that the urinals in question “are separated by partitions designed to enhance privacy” and the fact that her client, Cornell Holden, was standing at a urinal “indicates an attempt to have privacy.”

Mr. Holden, a 28-year-old baker, said he noticed that a bald man at the urinal next to him — who he later learned was a plainclothes police officer — was looking at him. A privacy divider, as well as a duffel bag slung over Mr. Holden’s shoulder, separated them.

“While I’m using the bathroom, he stepped back and kind of looks at me and then walks off,” Mr. Holden recalled. As he left, two officers approached him, asking what he had just been doing. “I said: ‘Nothing. I was using the bathroom,’ ” Mr. Holden said. “They pulled me aside, asked for my ID and then put handcuffs on me.”

Captain Fitzpatrick, the police commander, said that in cases where an arrest is made, officers have witnessed an act of public lewdness.

“They are not sidling up to somebody, trying to sneak a peek and misrepresenting what the person is doing,” the captain said. “There is no mistaking their behavior.”

In Mr. Holden’s case, the plainclothes officer, Michael Opromalla, filed an affidavit accusing Mr. Holden of rubbing himself in a manner “consistent with masturbation.”

"I was able to see the defendant do so while I was standing inside the public bathroom in a urinal adjacent to the urinal at which the defendant was standing," the officer continued.

"I wasn't committing a lewd act," Mr. Holden said of his arrest, on May 12. "I was peeing in the beginning, but I was shaking off when the guy stepped back and looked at me."

Mr. Holden said he wondered whether he had been targeted because the officer had assumed he was gay.

"I wore a leather jacket, fitted clothes. I guess that fits the description of a homosexual male," he said. "I was like, O.K., although I'm gay, I wasn't doing anything."

Held at a police station inside the bus terminal, Mr. Holden said he overheard a police officer refer to the bald plainclothes officer as "the gay whisperer."

Another man, who asked to be identified only by his first name, Miguel, said that while he urinated he also noticed a man, who he later learned was a police officer, watching him.

"You know how when you have a feeling someone is looking at you?" Miguel, 43, said of the episode, on July 9. "So I look over and see someone is smiling at me. It was like a smirk." He described the man as stocky and wearing blue shorts.

Miguel said he "paid it no mind," washed his hands and left the men's room. Walking toward his bus to New Jersey, he was arrested. The officer kept saying, "Oh, you know what you did," when Miguel asked why he had been arrested.

Miguel said he was not sure whether he had been targeted. "Anyone who would have gone next to that man, who would have stood in that particular urinal, would have gotten the rap that I got," he said.

But Miguel wondered whether his appearance played a role. "The way I was dressed that day — shorts, tank top, I was with my gym bag — I wasn't dressed in a way that someone would pay attention to me in a respectful way," he said.

A third man, a 38-year-old Mexican immigrant who works in a supermarket, shared a similar account of his arrest on May 30. He said that while he was urinating, the man next to him gave him a look, smiled and left.

The man, who requested anonymity because he was embarrassed and wanted to put the ordeal behind him, agreed to a deal in which the charges would be dropped if he stayed out of trouble for six months.

Asked about the current crop of cases, a spokeswoman for the Manhattan district attorney's office said in a statement that prosecutors have "offered the Legal Aid Society the opportunity to bring in any defendants who claim that they were arrested improperly to speak with us. They declined to do so. If they do, we will investigate their claims." But Tina Luongo, a Legal Aid lawyer, said many of the men felt humiliated "and don't want to be brought into law enforcement to be asked very personal questions."

In the past, there has been some evidence that Port Authority officers patrolling the men's room have arrested innocent people.

One lawsuit emerged from a 2003 arrest of a 64-year-old man who said he had been struggling to urinate when officers accused him of masturbating. Two months before the arrest, the man had had surgery for prostate cancer, leaving him mostly incontinent and probably unable to get an erection, according to a doctor's letter. The suit has since been dropped.

In 2005, a federal jury found that the police regularly conducted sweeps "for the crime of public lewdness, without regard to probable cause," as a federal court decision summarized the result. During that trial, which focused on a men's room at a PATH station, officers testified that they arrested as many as 30 people for public lewdness in a single shift in the 1990s. The jury awarded \$1.1 million to a man who had been arrested, although a judge reduced the amount.

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